



CITY of NOVI CITY COUNCIL

www.cityofnovi.org

**Agenda Item B
October 22, 2007**

SUBJECT: Acceptance of a Conservation Easement for Normandy Hills from SMJ Marketing, Inc. for property located on the north side of Eight Mile Road, between Meadowbrook and Novi Roads, covering 1.37 acres of woodland, wetland and wetland buffer.

SUBMITTING DEPARTMENT: Community Development ^{Burb} Department – Planning

CITY MANAGER APPROVAL: *PWA for CST*

BACKGROUND INFORMATION:

Normandy Hills is a 13-lot site condominium for single family homes proposed to be located on 9.36 acres on the north side of Eight Mile Road, between Meadowbrook and Novi Roads, known as SP 05-03. On February 8, 2006, the Planning Commission recommended approval of the Preservation Option Concept Plan to City Council and approved the Preliminary Site Plan, Woodland Permit, Wetland Permit and Stormwater Management Plan subject to City Council's approval. On February 21, 2006, the City Council approved the Preservation Option Concept Plan. On November 3, 2006, Final Site Plan approval was granted administratively.

The petitioner elected to use the City's Preservation Option which permits the reduction of the required lot area and lot width by the same percentage as the area permanently preserved. The conservation easement covers a total of 1.37 acres which represents 14% of the site. "Exhibit C" graphically depicts the woodlands, wetland and wetland buffer areas being preserved. The easement covers a portion of a slightly larger woodland and wetland area that extends into multiple properties.

The easement has been reviewed by the City and is currently in a form acceptable to the City Attorney's office for approval by the City Council.

RECOMMENDED ACTION: Acceptance of a Conservation Easement for Normandy Hills from SMJ Marketing, Inc. for property located on the north side of Eight Mile Road, between Meadowbrook and Novi Roads, covering 1.37 acres of woodland, wetland and wetland buffer.

	1	2	Y	N
Mayor Landry				
Mayor Pro Tem Capello				
Council Member Gatt				
Council Member Margolis				

	1	2	Y	N
Council Member Mutch				
Council Member Nagy				
Council Member Paul				

City Attorney Review Letter

August 14, 2007

30903 Northwestern Highway
P.O. Box 3040
Farmington Hills, MI 48333-3040
Tel: 248-851-9500
Fax: 248-851-2158
www.secretwardle.com

Elizabeth M. Kudla
Direct: 248-539-2846
ekudla@secretwardle.com

Barbara McBeth, Deputy Director of Community Development
CITY OF NOVI
45175 West Ten Mile Road
Novi, Michigan 48375

**Re: Normandy Hills Estates Condominium
Master Deed and Bylaws
Our File No. 660090 NOVI**

Dear Ms. McBeth:

We have received and reviewed the revised Master Deed and Bylaws for the Normandy Hills Estates Condominium project. The revised Master Deed and Bylaws were provided in response to our April 10, 2007 Review Report. We have the following comments regarding the revised documents:

Master Deed

Except as set forth below regarding the Planning and City Consultant's comments regarding the Master Deed, all legal issues with respect to the Master Deed and Condominium Subdivision Plan have been addressed, including the provision of a separate Emergency Ingress/Egress Easement for Mirabella Estates. Subject to the comments below, we have no additional issues relating to the Master Deed or Bylaws.

Planner's Comments Regarding Emergency Access Easement

We previously noted the following:

The City Planner's Memo indicates that the description and depiction of the Emergency Access Easement on page four of the Condominium Subdivision Plan is in conflict with the description and depiction on page eight. This item should be corrected in accordance with the Planner's report, a copy of which is enclosed.

Planning should confirm that this issue has been satisfactorily addressed on the latest version of the Exhibit B, Condominium Subdivision Plan.

Woodland Consultant's Comments Regarding Bylaws

The City's Woodland Consultant previously requested that the following notice pertaining to replacement trees be included in the Condominium Bylaws:

Regulated trees that must be removed to construct a home, utility service leads and to provide site drainage will require replacement trees to be provided by the builder or homeowner in accordance with the City of Novi Woodlands Ordinance included in Chapter 37 of the City of Novi Code. The builder or homeowner must provide plans showing the proposed location of the replacement trees, or, alternatively, must make a contribution to the City's Tree Fund. The amount of the contribution shall be based on the required number of replacement tree credits required, times the dollar amount per credit as established by the City at the time of proposed construction. All replacement trees added to the site must be a minimum of 2½ inches in caliper and of a tree species approved by the City.

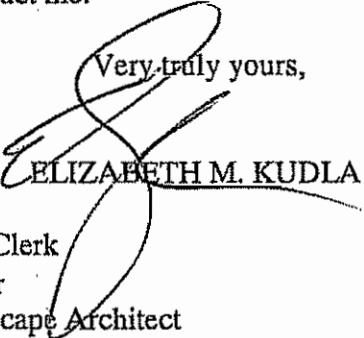
It does not appear that this provision has been added. It appears to be a language regarding ordinance requirements as opposed to a specific language requirement of site plan approval. The City's Woodland Consultant should confirm the source of the comment so that we may respond to the Developer's failure to add the language to the bylaws.

Conservation Easement

Subject to review and approval of the Exhibits by Planning and the City's Woodland and Wetland Consultants, the Conservation Easement is in order from a legal perspective and may be placed on an upcoming City Council Agenda for acceptance.

Should you have any additional questions or concerns in regard to this matter, please feel free to contact me.

Very truly yours,


ELIZABETH M. KUDLA

EMK

C: Maryanne Cornelius, Clerk
Mark Spencer, Planner
David Beschke, Landscape Architect
John Freeland, ECT Environmental
Jeff James, SMJ Marketing
Jay Schwartz, Esquire
Thomas R. Schultz, Esquire

Conservation Easement and Exhibits

CONSERVATION EASEMENT

THIS CONSERVATION EASEMENT is made this ____ day of _____, 200__, by and between SMJ Marketing, Inc. whose address is 28023 Larson Lane, Farmington Hills, MI 48331 (hereinafter the "Grantor"), and the City of Novi, and its successors or assigns, whose address is 45175 West Ten Mile Road, Novi, MI 48375, (hereinafter the "Grantee").

RECTITATIONS:

A. Grantor owns a certain parcel of land situated in Section 35 of the City of Novi, Oakland County, Michigan, described in *Exhibit A*, attached hereto and made a part of hereof (the "Property"). Grantor has received final site plan approval for construction of a residential site condominium development on the Property, subject to provision of an appropriate easement to permanently protect, preserve and/or maintain certain wetlands, wetland buffers, woodlands and open space areas contained therein from destruction or disturbance. Grantor desires to grant such an easement in order to protect the described areas.

B. The Conservation Easement Areas (the "Easement Areas") situated on the Property are more particularly described on *Exhibit B* and depicted on *Exhibit C*, attached hereto and made a part of hereof, the second page of which contains a drawing depicting the protected area.

NOW, THEREFORE, in consideration of the sum of One Dollar (\$1.00), in hand paid, the receipt and adequacy of which are hereby acknowledged, Grantor hereby reserves, conveys and grants the following Conservation Easement, which shall be binding upon the Grantor, the City, and their respective heirs, successors, assigns and/or transferees and shall be for the benefit of the City, all Grantors and purchasers of the property and their respective heirs, successors, assigns and/or transferees. This Conservation Easement is dedicated pursuant to Subpart 11 of Part 21 of the National Resources and Environmental Protection Act being MCL 324.2140, et. seq., upon the terms and conditions set forth herein as follows:

1. The purpose of this Conservation Easement is to permanently protect the wetlands, wetland buffers, woodlands and open space areas, as shown on the attached and incorporated *Exhibits B and C* in their natural and undeveloped condition, unless authorized by permit from the City and, if applicable, the Michigan Department of Environmental Quality and the appropriate federal agency.

2. Except for and subject to the activities which have been expressly authorized by permit and/or the approved site plan for the site condominium development, there shall be no disturbance of the wetlands, wetland buffers, woodlands and open space areas and/or vegetation within the Easement Areas, including altering the topography of; placing fill material in; dredging, removing or excavating soil, minerals, or trees; and from constructing or placing any structures on; draining surface water from; or plowing, tilling, cultivating, or otherwise altering or developing, and/or constructing, operating, or maintaining any use or development in the Easement Areas.

3. No grass or other vegetation shall be planted in the Easement Areas with the exception of plantings approved, in advance, by the City in accordance with all applicable laws and ordinances.

4. All areas identified on *Exhibit B* as open space areas shall be forever reserved and preserved, in condition specifically approved by the City in accordance with applicable laws and ordinances.

5. This Conservation Easement does not grant or convey to Grantee, or any member of the general public, any right of ownership, possession or use of the easement Area, except that, upon reasonable written notice to Grantor, Grantee and its authorized employees and agents (collectively, "Grantee's Representatives") may enter upon and inspect the Easement Area to determine whether the Easement Area is being maintained in compliance with the terms of the Conservation Easement.

6. In the event that the Grantor shall at any time fail to carry out the responsibilities specified within this Conservation Easement, and/or in the event of a failure to protect, preserve and/or maintain wetlands, wetland buffers, woodlands and open space areas in reasonable order and condition, the City may serve written notice upon Grantor, setting forth the deficiencies in maintenance and/or preservation. Notice shall also set forth a demand that the deficiencies be cured within a stated reasonable time period, and the date, time and place of the hearing before the City Council, or such other

Council, body of official delegated by the City Council for the purpose of allowing the Grantor to be heard as to why the City should not proceed with the maintenance and/or preservation which has not been undertaken. At the hearing, the time for curing the deficiencies and the hearing itself may be extended and/or continued to a date certain. If, following the hearing, the City Council, or other body or official designated to conduct the hearing, shall determine that maintenance and/or preservation have not been undertaken within the time specified in the notice, the City shall thereupon have the power and authority, but not the obligation, to enter upon the property, or cause its agents or contractors to enter upon the property and perform such maintenance and/or preservation as reasonably found by the City to be appropriate. The cost and expense of making and financing such maintenance and/or preservation, including the cost of notices by the City and reasonable legal fees incurred by the City, plus an administrative fee in the amount of 25% of the total of all costs and expenses incurred, shall be paid by the Grantor, and such amount shall constitute a lien on an equal pro rata basis as to all of the units on the Property. The City may require the payment of such monies prior to the commencement of work. If such costs and expenses have not been paid within 30 days of a billing to the Grantor, all unpaid amounts may be placed on the delinquent tax roll of the City as to the units, and shall accrue interest and penalties, and be collected as and deemed delinquent real property taxes, according to the laws made and provided for the collection of delinquent real property taxes. In the discretion of the City, such costs and expenses may be collected by suit initiated against the Grantor and, in such event, the Grantor shall pay all court costs and reasonable attorney fees incurred by the City in connection with such suit.

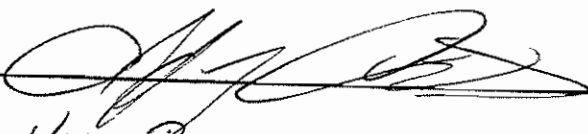
7. Within 90 days after the Conservation Easement shall have been recorded, Grantor, at its sole expense, shall place such signs defining the boundaries of the Easement Area and describing its protected purpose, as indicated herein.

8. This Conservation Easement has been made and given for a consideration of a value less than One Hundred (\$ 100.00) Dollars and, accordingly, is (i) exempt from the State Transfer Tax, pursuant to MSA 7.456(26)(2) and (ii) exempt from the County Transfer Tax, pursuant to MAS 7.456(5)(a).

9. Grantor shall state, acknowledge and/or disclose the existence of this Conservation Easement on legal instruments used to convey an interest in the property.

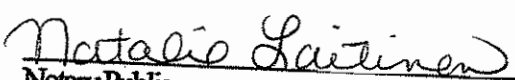
WHEREOF, Grantor and Grantee have executed the Conservation Easement as of the day and year first above set forth.

(Grantor)
SMJ Marketing, Inc.
A Michigan Profit Corporation

By: 
Its: VICE-PRESIDENT

STATE OF MICHIGAN)
) SS
COUNTY OF OAKLAND)

The foregoing instrument was acknowledged before me this 4th day of October, 2007, by Jeffrey James, as the Vice-President of SMJ Marketing, Inc.


Notary Public
Oakland County, Michigan
My Commission Expires: 12-14-12

NATALIE LAITINEN
NOTARY PUBLIC, STATE OF MI
COUNTY OF OAKLAND
MY COMMISSION EXPIRES Dec 14, 2012
ACTING IN COUNTY OF Oakland

(Grantee)
CITY OF NOVI
A Municipal Corporation

By:
Its:

STATE OF MICHIGAN)
)ss
COUNTY OF OAKLAND)

The foregoing instrument was acknowledged before me this _____ day of _____, 200____, by _____, on behalf of the City of Novi, a Municipal Corporation.

Notary Public
Oakland County, Michigan
My Commission Expires: _____

Drafted By:
Elizabeth M. Kudla
30903 Northwestern Highway
P.O. Box 3040
Farmington Hills, MI 48333-3040

When recorded return to:
Maryanne Cornelius, Clerk
City of Novi
45175 W. Ten Mile
Novi, MI 48375

WARNER, CANTRELL & PADMOS, INC.

CIVIL ENGINEERS & LAND SURVEYORS

27300 Haggerty Road, Suite F2
Farmington Hills, MI 48331

EXHIBIT "A"

DESCRIPTION

PART OF THE SOUTHEAST 1/4 OF SECTION 35, T.1N., R.8E., CITY OF NOVI, OAKLAND COUNTY, MICHIGAN BEING DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SECTION 35, T.1N., R.8E., CITY OF NOVI AND PROCEEDING THENCE S.87°47'25"W. ALONG THE SOUTH LINE OF SAID SECTION 35, ALSO BEING THE CENTERLINE OF EIGHT MILE ROAD 599.60'; THENCE N.02°33'46"W., 60.00' TO THE POINT OF BEGINNING OF THE PARCEL HEREIN DESCRIBED; THENCE S.87°47'25"W., ALONG A LINE 60.00' NORTHERLY OF AND PARALLEL TO THE SOUTH LINE OF SAID SECTION 35 AND SAID CENTERLINE OF EIGHT MILE ROAD (120.00' WIDE), 4.03'; THENCE N.65°38'41"W., 55.90'; THENCE S.65°10'13"W., 65.00'; THENCE S.87°47'25"W., ALONG A LINE 60.00' NORTHERLY OF AND PARALLEL TO THE SOUTH LINE OF SAID SECTION 35 AND SAID CENTERLINE OF EIGHT MILE ROAD (120.00' WIDE) TO THE SOUTHEAST CORNER OF COUNTRY PLACE CONDOMINIUM, AS RECORDED IN LIBER 8115, PAGES 92-298, OAKLAND COUNTY RECORDS, 276.20'; THENCE N.02°24'01"W. (RECORDED AS S.00°10'57"E.) ALONG THE EASTERLY LINE OF SAID COUNTRY PLACE CONDOMINIUM, 1055.32'; THENCE N.88°26'49"E., 330.00' (RECORDED AS N.89°49'44"E.) TO THE SOUTHWEST CORNER OF PINE HOLLOW SUBDIVISION, AS RECORDED IN LIBER 205, OF PLATS, PAGES 13 AND 14, OAKLAND COUNTY RECORDS; THENCE IN PART ALONG THE SOUTH LINE OF SAID PINE HOLLOW SUBDIVISION N.87°57'04"E., 56.64'; THENCE S.02°37'40"E., 576.25'; THENCE S.02°33'46"E., 475.15' TO THE POINT OF BEGINNING CONTAINING 9.3626 ACRES AND BEING SUBJECT TO ALL EASEMENTS AND RESTRICTIONS OF RECORD.

FEBRUARY 16, 2004
REV. 9-15-04
REV. 5-2-06

WARNER, CANTRELL & PADMOS, INC.

CIVIL ENGINEERS & LAND SURVEYORS

27300 Haggerty Road, Suite F2
Farmington Hills, MI 48331

EXHIBIT "B"
CONSERVATION EASEMENT
PROPOSED NORMANDY HILLS ESTATES

AN EASEMENT FOR CONSERVATION PURPOSES ON, OVER, UNDER AND ACROSS PART OF THE SOUTHEAST 1/4 OF SECTION 35, T.1N., R.8E., CITY OF NOVI, OAKLAND COUNTY, MICHIGAN. SAID EASEMENT BEING DESCRIBED AS FOLLOWS:

CONSERVATION AREA A:

COMMENCING AT THE SOUTHEAST CORNER OF SECTION 35, T.1N., R.8E., CITY OF NOVI AND PROCEEDING THENCE S.87°47'25"W. ALONG THE SOUTH LINE OF SAID SECTION 35, ALSO BEING THE CENTERLINE OF EIGHT MILE ROAD 990.00'; THENCE N.02°24'01"W., 100.00' TO THE POINT OF BEGINNING OF THE EASEMENT FOR CONSERVATION; THENCE CONTINUING N.02°24'01"W., 567.90' TO A POINT HEREINAFTER REFERRED TO AS POINT "A"; THENCE N.87°47'25"E., 16.66'; THENCE N.02°24'01"W., 23.61'; THENCE N.86°36'47"E., 18.35; THENCE S.02°24'01"E., 591.89'; THENCE S.87°47'25"W., 35.00'; TO THE POINT OF BEGINNING. CONTAINING 0.466 ACRES.

CONSERVATION AREA B:

ALSO, AN EASEMENT FOR CONSERVATION COMMENCING AT HERETOFORE DESCRIBED POINT "A" AND PROCEEDING THENCE N.02°24'01"W. 48.60 TO THE POINT OF BEGINNING OF THE EASEMENT FOR CONSERVATION; THENCE CONTINUING N.02°24'01"W., 120.82' TO A POINT HEREINAFTER REFERRED TO AS POINT "B"; THENCE N.87°35'59"E., 35.00'; THENCE S.02°24'01"E., 116.07'; THENCE S.41°36'47"W., 13.41'; THENCE S.86°36'47"W., 20.26'; THENCE N.48°25'06"W., 7.54' TO THE POINT OF BEGINNING. CONTAINING 0.099 ACRES.

CONSERVATION AREA C:

ALSO, AN EASEMENT FOR CONSERVATION COMMENCING AT HERETOFORE DESCRIBED POINT "B" AND PROCEEDING THENCE N.02°24'01"W., 278.00'; THENCE N.88°26'49"E., 330.00'; THENCE N.87°57'04"E., 41.64' TO THE POINT OF BEGINNING OF THE EASEMENT FOR CONSERVATION; THENCE CONTINUING N.87°57'04"E. 15.00'; THENCE S.02°37'40"E., 402.72' TO A POINT HEREINAFTER REFERRED TO AS POINT "C"; THENCE S.87°35'59"W., 15.00'; THENCE N.02°37'40"W., 402.81' TO THE POINT OF BEGINNING. CONTAINING 0.139 ACRES.

CONSERVATION AREA D:

ALSO, AN EASEMENT FOR CONSERVATION COMMENCING AT HERETOFORE DESCRIBED POINT "C" AND PROCEEDING THENCE S.02°37'40"E., 35.00'; TO THE POINT OF BEGINNING OF THE EASEMENT FOR CONSERVATION; THENCE CONTINUING S.02°37'40"E., 138.53'; THENCE S.02°33'46"E., 217.47' TO A POINT HEREINAFTER REFERRED TO AS POINT "D"; THENCE S.87°35'59"W., 15.00'; THENCE N.02°33'46"W., 217.42'; THENCE N.02°37'40"W., 141.84'; THENCE S.76°28'52"E., 11.92'; THENCE N.87°22'20"E., 3.55'; TO THE POINT OF BEGINNING. CONTAINING 0.123 ACRES.

CONSERVATION AREA #1

ALSO, AN EASEMENT FOR CONSERVATION DESCRIBED AS BEGINNING AT POINT "D" HERETOFORE DESCRIBED AND PROCEEDING THENCE S.02°33'46"E., 91.75 TO A POINT HEREINAFTER REFERRED TO AS POINT "E"; THENCE S.09°05'12"W., 106.20'; THENCE S.44°16'01"W., 23.02'; THENCE N.48°58'09"W., 25.10'; THENCE N.44°16'01"E., 16.55'; THENCE N.09°08'57"E., 108.15'; THENCE N.27°55'01"E., 25.17'; THENCE N.07°42'23"E., 20.55'; THENCE N.03°58'07"W., 35.10'; THENCE N.87°35'59"E., 6.82' TO THE POINT OF BEGINNING. CONTAINING 0.093 ACRES.

CONSERVATION AREA #2

ALSO, AN EASEMENT FOR CONSERVATION DESCRIBED AS COMMENCING AT POINT "E" HERETOFORE DESCRIBED; THENCE CONTINUING S.02°33'46"E., 62.07' TO THE POINT OF BEGINNING OF THE EASEMENT HEREIN DESCRIBED S.02°33'46"E., 70.22'; THENCE S.53°50'35"W., 22.37'; THENCE S.36°16'35"W., 12.59'; THENCE N.65°38'41"W., 25.55' TO A POINT HEREINAFTER REFERRED TO AS POINT "F"; THENCE N.36°16'35"E., 21.73'; THENCE N.53°50'35"E., 33.28'; THENCE N.07°22'05"E., 46.20'; TO THE POINT OF BEGINNING. CONTAINING 0.032 ACRES.

CONSERVATION AREA #3

ALSO, AN EASEMENT FOR CONSERVATION DESCRIBED AS COMMENCING AT POINT "F" HERETOFORE DESCRIBED; THENCE N.65°38'41"W., 5.12'; THENCE S.65°10'13"W., 7.41' TO THE POINT OF BEGINNING OF THE EASEMENT HEREIN DESCRIBED; THENCE CONTINUING S.65°10'13"W., 31.18'; THENCE N.55°54'49"W., 12.34'; THENCE N.41°01'51"E., 42.58'; THENCE S.48°58'09"E., 25.00'; THENCE S.41°01'51"W., 12.64 TO THE POINT OF BEGINNING. CONTAINING 0.019 ACRES.

CONSERVATION AREA #4

ALSO, AN EASEMENT FOR CONSERVATION DESCRIBED AS BEGINNING AT POINT "B" HERETOFORE DESCRIBED; THENCE N.02°24'01"W., 208.43'; THENCE N.87°01'37"E., 45.00'; THENCE S.02°24'01"E., 116.30'; THENCE S.81°51'07"E., 80.55'; THENCE ALONG A NON-TANGENT CURVE TO THE LEFT RADIUS 70.00' (CENTRAL ANGLE 58°31'33") THE CHORD OF SAID CURVE BEARS S.21°06'54"E., 68.43', A DISTANCE OF 71.50'; THENCE ALONG A REVERSE CURVE TO THE RIGHT RADIUS 51.00' (CENTRAL ANGLE 18°47'59") THE CHORD OF SAID CURVE BEARS S.40°58'41"E., 16.66', A DISTANCE OF 16.73'; THENCE S.87°35'59"W., 156.53'; TO THE POINT OF BEGINNING. CONTAINING 0.385 ACRES.

ALL EIGHT CONSERVATION EASEMENT AREAS CONTAINING A TOTAL OF 1.371 ACRES.

20030611
REVISED JUNE 26, 2006
REVISED OCTOBER 16, 2006
REVISED NOVEMBER 17, 2006



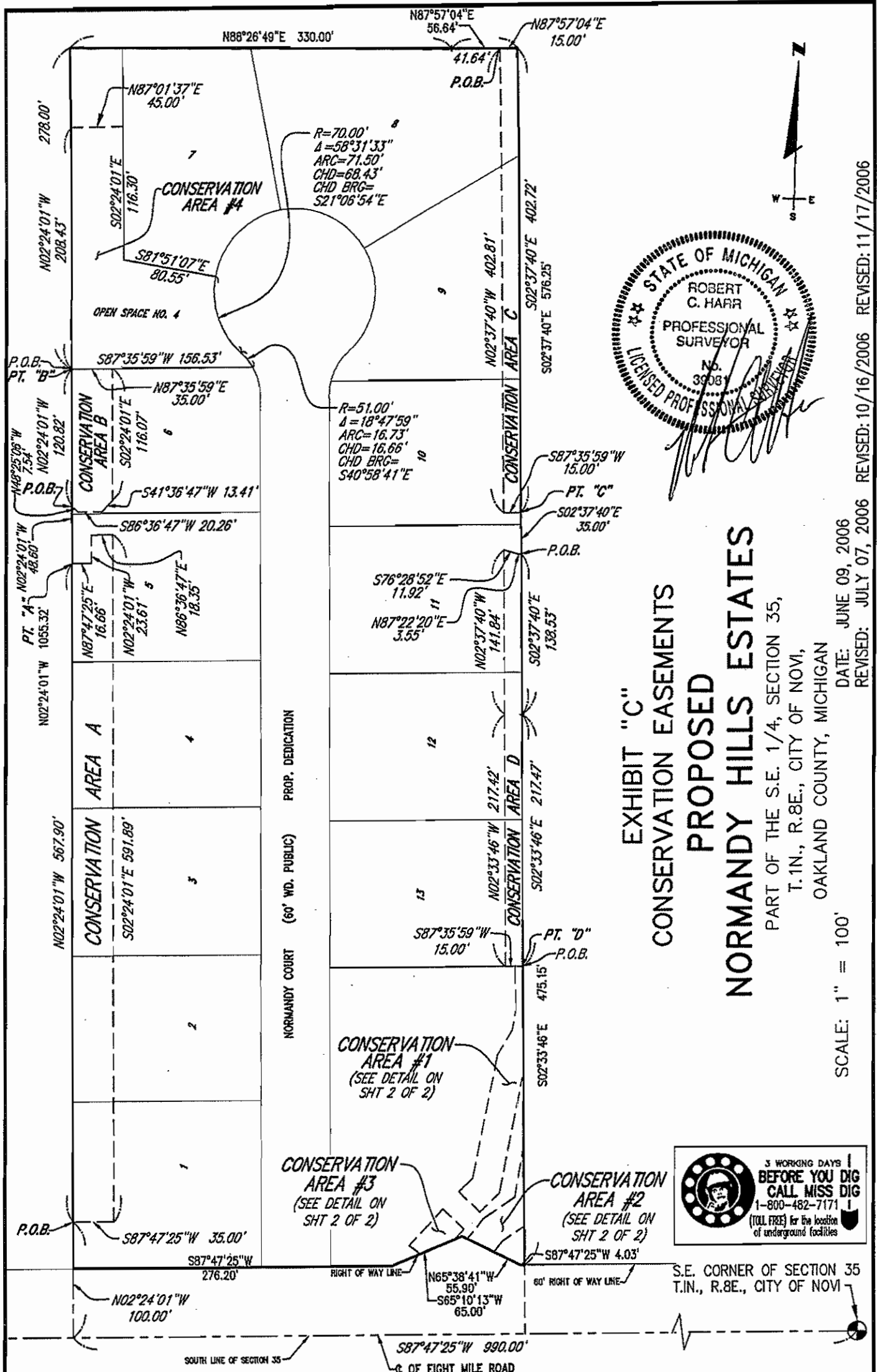


EXHIBIT "C"
CONSERVATION EASEMENTS
PROPOSED
NORMANDY HILLS ESTATES
 PART OF THE S.E. 1/4, SECTION 35,
 T.1N., R.8E., CITY OF NOVI,
 OAKLAND COUNTY, MICHIGAN

DATE: JUNE 09, 2006
 REVISED: JULY 07, 2006
 REVISED: 10/16/2006
 REVISED: 11/17/2006

SCALE: 1" = 100'



S.E. CORNER OF SECTION 35
 T.1N., R.8E., CITY OF NOVI

FOR: SMJ MARKETING, INC.
 28023 LARSON LANE
 FARMINGTON HILLS, MI 48331
 (248) 848-9568

WARNER, CANTRELL & PADMOS, INC.
 CIVIL ENGINEERS & LAND SURVEYORS
 27300 HAGGERTY ROAD, SUITE F2
 FARMINGTON HILLS, MI 48331
 (248) 848-1666

JOB # 20030611

SHEET 1 OF 2

F:\Land Projects 2004\20030611\dwg\Drawings\Eng\030611ESMT.dwg, 02 CONSERVATION ESMT, 11/20/2006 8:33:03 AM, Itona, KIP All-Other Systems.pcs

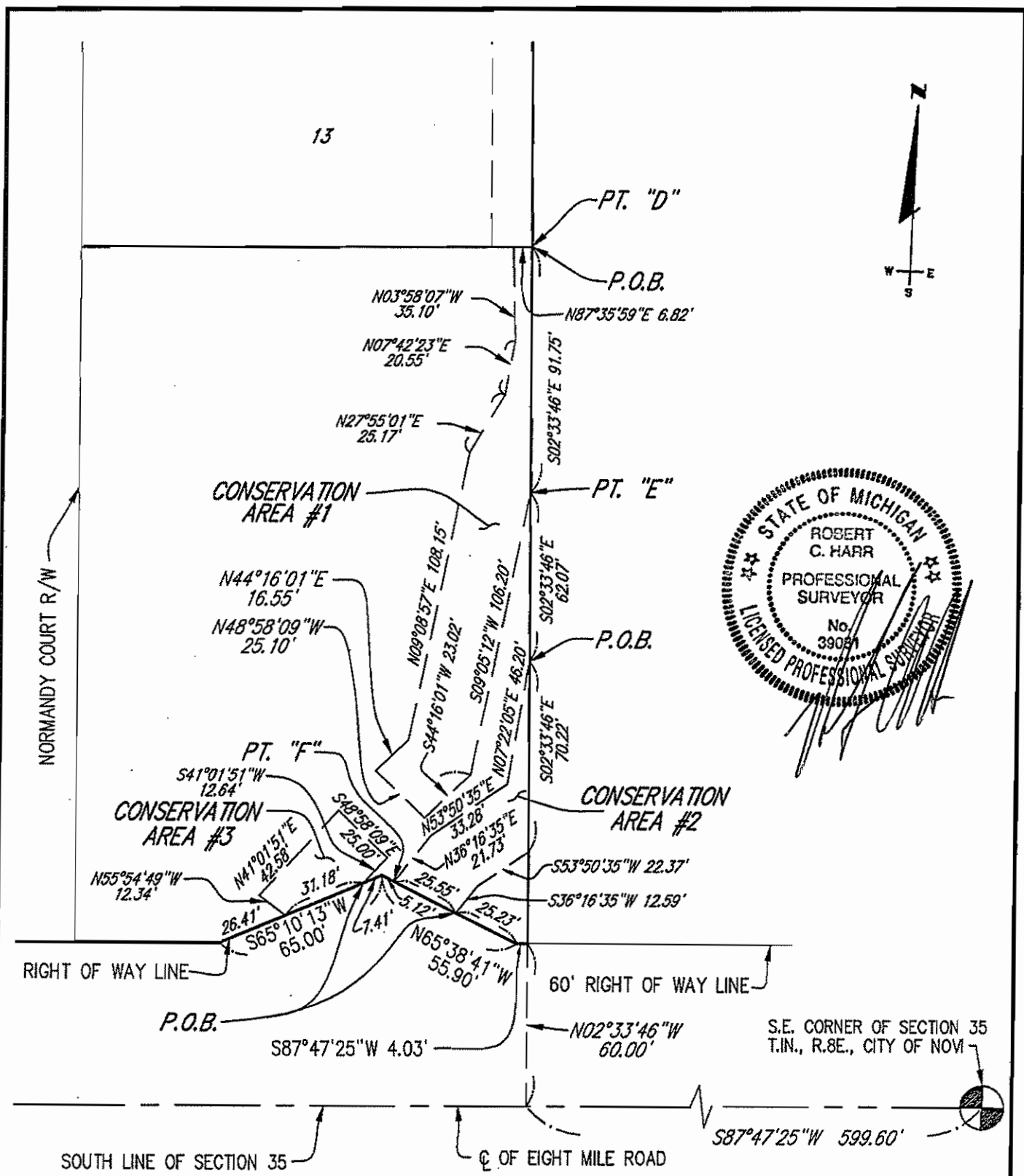


EXHIBIT "C"
CONSERVATION EASEMENTS
PROPOSED
NORMANDY HILLS ESTATES

PART OF THE S.E. 1/4, SECTION 35,
T.1N., R.8E., CITY OF NOVI,
OAKLAND COUNTY, MICHIGAN



SCALE: 1" = 50'

DATE: JUNE 09, 2006
REVISED: JULY 07, 2006
REVISED: NOVEMBER 17, 2006

FOR: SMJ MARKETING, INC.
28023 LARSON LANE
FARMINGTON HILLS, MI 48331
(248) 848-9568

WARNER, CANTRELL & PADMOS, INC.
CIVIL ENGINEERS & LAND SURVEYORS
27300 HAGGERTY ROAD, SUITE F2
FARMINGTON HILLS, MI 48331
(248) 848-1666

JOB # 20030611

SHEET 2 OF 2

Reduced Site Plan

Location Map



Normandy Hills Site Condominium Location and Aerial Photo

City of Novi, Michigan



Legend

- City Boundary
- Parcel

Created using the (GIS)
 Geographic Information
 System of:
 The City of Novi
 45715 West-Terr Mile Road
 Novi, Michigan 48075
 (248) 947-0454

Coordinate System Description
 Projection: Michigan State Plane
 Zone: South Zone (6401)
 Horizontal Datum: NAD 1983
 Map Units: International Feet
 Albers Projection
 The horizontal distance
 is measured in
 International Feet

Date Created:
 March 4, 2005
 Project Folder:
 Normandy Hills



0 20 40 60 120 160 1 Feet
 Created by:
 Mark Spencer, AICP
 Planner, Plan Review Center



Planning Commission Minutes

Excerpts

February 8, 2006



PLANNING COMMISSION
REGULAR MEETING
EXCERPTS
WEDNESDAY, FEBRUARY 8, 2006 7:30 P.M.
COUNCIL CHAMBERS - NOVI CIVIC CENTER
45175 W. TEN MILE, NOVI, MI 48375
(248) 347-0475

ROLL CALL

Present: Members, Victor Cassis, David Lipski, Michael Lynch, Michael Meyer, Mark Pehrson

Absent: John Avdoulos (excused), Andrew Gutman (excused), Lynn Kocan (excused), Wayne Wrobel (excused)

Also Present: Barbara McBeth, Director of Planning; Jason Myers, Planner; Mark Spencer, Planner; Tim Schmitt, Planner; Brian Coburn, Civil Engineer; Kathy Smith-Roy, Finance Director; Doris **Hill Hills**, Landscape and Woodland Consultant; David Gillam, City Attorney

PUBLIC HEARINGS**1. NORMANDY HILLS ESTATES, SP05-03A**

The Public Hearing was opened on the request of Jeff James of SMJ Marketing for recommendation to City Council of the Preservation Option Concept Plan, and Preliminary Site Plan, Wetland Permit, Woodland Permit and Storm Water Management Plan approvals. The subject property is located in Section 35, west of Meadowbrook and north of Eight Mile, in the R-1, One-Family Residential District. The Applicant proposes a 13-lot single-family development on 9.3 acres.

Planner Mark Spencer described the property as being 600 feet west of Meadowbrook Road adjacent to the north side of Eight Mile. This is a revised Preliminary Site Plan and Concept Plan proposing the Preservation Option. To the north and west are Country Place Condominiums, zoned RM-1, Multi Family Residential. To the north is the Pine Hollow Subdivision, zoned R-2, Single Family Residential. To the east are Mirabella Estates (formally Meadowbrook 8) site condominium and one home, zoned R-1, Single Family Residential. To the south are single family homes zoned R-1 and R-2 in Northville Township. The subject property currently has two homes that are slated for removal. The Master Plan recommends Single Family Residential for the area, and Multiple Family Residential to the west.

There are regulated wetlands on the southerly portion of the site, though they are not identified on the City's wetland map. There are regulated woodlands on the site as well. The review of this plan was postponed from an earlier Planning Commission meeting in order to give the Applicant time to address his connectivity options with his neighbors. There is a cross access easement in place on the Mirabella property. This Applicant has now relocated his access to meet Mirabella's easement.

With the Preservation Option, the Applicant is permitted to reduce lot areas and widths. The Applicant is proposing to save 5% of the site's natural features in exchange for lot reductions equaling 5%. The Planning Commission would typically make their recommendation on the Concept Plan before taking action on a Preliminary Site Plan. Since this plan is a revised plan and has been previously reviewed by the Planning Commission, and given the fact that this Applicant has been working extensively with the City to address concerns relating to this project, the Planning Department recommends that the Planning Commission make a positive recommendation on the Concept Plan and, if they find the site plan to be acceptable, take action on the Preliminary Site Plan as well, subject to City Council's approval of the Concept Plan. The City Attorney's office has agreed that this course of action would be acceptable. This would expedite the Applicant's process.

Several of the reviews do not recommend approval, but Staff would recommend approval if the Applicant is granted waivers and he corrects several outstanding items.

The intent of the Preservation Option is to offer an incentive to preserve regulated woodlands and locally important plant or animal habitat. It is the further intent of the option not to increase the number of lots permitted. The Preservation Option in R-1 permits a reduction in minimum lot area of 18,000 square feet,

with a minimum lot width of 110 feet, subject to a maximum reduction equal to the calculated Preservation Credit Percentage. The Preservation credit areas can be regulated woodlands, wetland buffers, quality wetlands of less than 2 acres, or locally important plant or animal habitat; Credit areas do not include lot areas, storm water retention or detention areas.

The Applicant proposes preserving 0.53 acres (5.69% of site) of regulated woodland in the northwest corner and wetland buffer areas located in common element areas. This entitles him to reduce the lot areas and lot widths by 5.69% for a minimum lot area of 20,541 square feet and lot width of 113.17 feet

There was an initial concern that the buffer may be in a drainage easement, but it has been determined that the buffer is not in an easement at this time.

Other preservation areas proposed include a 35-foot strip along the west property line and a 15-foot strip along the east property line. These are non-qualifying areas because they are in individual lots. The Planning Department has suggested that a Conservation Easement be placed on the triangle in the corner because it is an open space area proposed to remain open anyway.

Mr. Spencer said that the Preservation Option requires submittal of a Bona Fide Plan using conventional requirements. The Planning Department believes the original submittals of this plan could be used as the Bona Fide Plan. With some tweaking, that plan was approvable. The Bona Fide Plan is used to determine the number of lots. This proposal is designed with the same number of lots as the previously submitted plans.

The Planning Commission could recommend approval to the City Council of the Concept Plan with a finding that all of the following requirements of Section 2401.4 of the Zoning Ordinance have been met. Mr. Spencer briefly described these requirements. The use of the Option will result in a more pleasing and desirable layout than could be obtained with conventional development means. The use will not cause a detrimental impact on the surrounding neighborhood. The project is not a continuation or phase of another development. The use of the Option will result in a substantial preservation of regulated woodlands, locally important small wetlands or animal/plant habitat than would not be possible with bona fide conventional requirements. Use of the Option would be subject to the Applicant providing a mechanism to permanently preserve the preservation areas and obtaining all necessary environmental permits. The Applicant has indicated he would place the easements on the conservation areas.

Mr. Spencer said that while most Ordinance requirements are met, there are some deficiencies. A City Council Variance is necessary for the lack of stub streets to all neighboring properties. Staff supports this request for a variance because none of the neighboring properties provided a place for that stub street. The Applicant must provide more than one point of access to the development unless access to each lot is less than 800 feet from the access point of the development. Lots 7 and 8 are over 900 feet from Eight Mile. The emergency access connection proposed through an access easement to Mirabella Estates should satisfy that requirement. The Applicant must provide paving details for this access. The Applicant will also be submitting the proposed Conservation Easement with the next submittal.

Staff also supports the Applicant's request for a Planning Commission Waiver of the landscaped berm on the west boundary, provided that opacity requirements are met with supplemental screening.

A Planning Commission Waiver of the landscaped berm on the north boundary is supported by Staff if opacity is met without interfering with the City's sanitary sewer. There may be some tweaking of the plan that could further improve the opacity.

A Planning Commission Waiver of the Eight Mile ROW berm and street tree requirements east of entrance is also requested, supported by Staff due to grade changes and wetlands in the area. The site goes down into a deep hole along the right-of-way. A Planning Commission Waiver to permit additional

planting along the Eight Mile ROW is also supported by Staff, but is subject to Wayne County approval.

Chair Cassis opened the floor for comment:

- Jim Roedersheimer, 41721 Onaway Drive: Represented Country Place. He has been following the approval process of this project. He was pleased with the review. He recalled that the stub road was not a requirement on the Mirabella property. He thought that the plan would be better if the road was only 800 feet long. The Preservation Option would then provide a significant amount of credit space. This is the most densely treed area. He thought some of the westerly screening was questionable. He thought that the screening along the northerly property line would be a challenge in light of the sanitary sewer easement.

Jeff James addressed the Planning Commission. He introduced Dino Lekas from JJR, Landscape Architects, and Andy Schripsema from Warner, Cantrell and Padmos Engineering. The site has been re-engineered to address the access drive connection. The new plan provides more open space, as requested by the Planning Commission.

Mr. James said that the Ordinance calls for a berm between this property and Country Place, which would strip this area of its trees. This plan preserves these trees, some of which are of great value. The area will be supplemented. The plan is to create a boundary of plantings and preservation area. This would include the area between lots 6 and 7. Mr. James thought this was the best possible plan and he agreed to continue to work with the City on the plan for the minor adjustments necessary for Final Site Plan submittal.

Chair Cassis asked Member Pehrson to read the correspondence into the record:

- Sopia Hokawala, 20840 East Glen Haven: Thought the plan would increase her property value.
- Harry Robins, 20958 East Glen Haven: Approved of the plan.
- Linda Clausen, 20844 East Glen Haven: Objected because she thought the City was becoming overdeveloped. It would increase population, density, and would decrease the character of the City. Too many trees are being torn down.
- Sandra Steffke, 41757 Onaway Drive: Objected because the site is recognized as woodlands. She did not think the increase in density warranted the removal of these trees.
- Philip Laar, 21051 East Glen Haven: Objected because he would prefer the land to remain undeveloped.
- Joanne and Arden McClure, 41765 Onaway: Objected because the woods need to be saved.
- Amelia Griffin, 21136 East Glen Haven: Objected because of the proximity to Country Place, and the trees and woodlands would be stripped.
- Diana Klawitter, 41767 Onaway: Objected because she thought the area was protected. Natural features are part of the natural water management system.
- Baul Bauman, Vistal Homes, 46870 Seven Mile, Northville: Stated that the access easement placement north of lot 6 was acceptable to them (they are the adjacent landowner). He was not in a position to grant a water easement at this time but agreed to continue negotiations.

Chair Cassis asked about the negotiations between these two landowners. Mr. James replied that he has not reentered negotiations with them. He redesigned his plan to meet the City-approved Mirabella plan specifications for the emergency access easement. Mr. James said that he has not negotiated any water easements with Vistal. He was leery about negotiating this aspect with them. Mr. James was prepared to run the line under the access drive and stub it at the property line. If they want to tie into the line there, and if the City wants to enter into negotiations at that time, it would be fine with Mr. James. The subject plan proposes a different loop from Eight Mile that comes in under 800 feet. This, and the stub to the property line, are the two options Mr. James was willing to consider. Mr. James said that he did not want to get involved in extravagant negotiations with this landowner again. He did not think he should have to be involved with getting an easement on their property. They had an approved access drive, and Mr. James did not know if there was also an approved plan for a stubbed water main for that property.

Chair Cassis closed the Public Hearing.

Member Lynch asked if the land was a protected wetland. Mr. Spencer said there are some City- and State-regulated wetlands on the site. It is not the entire site. The area that runs along the creek and a finger that runs into the first lot onto the east side are the protected areas. That finger is a drainage area coming from the driveways into the finger. Member Lynch thought that the various comments about the land being protected were coming from the northwesterly neighbors. Member Lynch wished to have the record set straight for the community as to whether this land is protected. Member Lynch did not think that the neighbors were correct in their comments. Mr. Spencer said that the City's wetland consultant did field verify the wetlands on the site. There are regulated woodlands on the site, but this does not mean it is a protected area, per se. The land use would have to meet the terms of the Woodland Ordinance, and Vilican Leman, the City's Woodland Consultant, was at the meeting and would be available to comment further. The portion along the north property line was not part of the regulated woodland, because that is where the sewer line was placed in the 1960s. There are no woods there to protect. There is a regulated woodland in the central area. The Planning Commission had a map that gave its approximate boundary.

Member Lynch concluded that the land is not protected, and that the plan is legal and does not violate any wetland or stormwater management laws. Mr. Spencer said he could defer to the City Attorney, but he said that everything that the Applicant is proposing is a permitted use. The Applicant is following the Ordinance. He is providing mitigation where required. City Attorney David Gillam explained that a large part of the property is a regulated woodland. This is different *than that* a protected wetland. The City's Woodland Ordinance essentially states that the property can be developed within limitations. Any trees removed for development would have to be replaced. What the Applicant is proposing to do is consistent with all of the Ordinances, provided the waivers and variances are granted.

Member Lynch reiterated that since the claim was made that the land is protected, he wanted the record to confirm or reject this statement. He looked at the proposal and he thought it was a beautiful plan. He did not think that too much development was being proposed. He wanted to ensure that no natural feature violations were being approved.

Member Lynch asked if another home would be allowed in the open area. He learned that this area would remain as woods and no home would be allowed.

Member Lynch asked about the cross access easement. Chair Cassis said that while nothing is provided that states the connection would be paved, the Applicant has given his assurance that the access would be paved. Mr. Spencer interjected that the Applicant has said that he would address this at the time of Final Site Plan submittal. There are some options available to him. He could request a waiver from City Council for the paving. Mr. Spencer also explained that the agreement with Mirabella Estates was that they were required to put in their cross access easement when the subject property develops. This language is in their Master Deed. There is a mechanism in the Master Deed to set up a Special Assessment District if the developer does not want to pay for it.

Member Lynch said that he understood the need for emergency access. He knew the hope is to keep as much green space as possible. He understood that the developer will submit more information at the time of Final Site Plan submittal. Civil Engineer Brian Coburn said that the Design and Construction Standards require that this access be paved. This is echoed in the Fire Prevention Ordinance. If the Applicant proposes something other than pavement (asphalt or concrete), the Applicant would need a variance from City Council. City Council would seek input and support from the Fire Marshal. The Ordinance states the road must be paved and able to support 35 tons.

Chair Cassis said that he has seen a Novi apartment design where the support is underneath, but the top

is green. Mr. Coburn said this is really a Fire Department call because it is a safety issue. Member Lynch asked if this was a Novi Fire Department issue because he does not know of other communities' requirement for emergency access like this. Mr. Gillam said that long cul-de-sac developments were probably built before this requirement went on the books. From his experience, this requirement is pretty standard now. Any Oakland County Fire Chief will agree that sufficient access must be available for a pumper truck or a ladder truck for instances where the main entrance is blocked or closed.

Member Meyer complimented the developer on the effort he has put forth. He liked the conservation/preservation aspect. He liked the buffer between this site and Country Place, noting that it preserved as many trees as possible. He appreciated the Planning Department's recommendations. He was concerned about the letter submitted by Vistal Homes. He felt it inferred that there is a need to negotiate; he just didn't know who should be involved.

Mr. Gillam explained that in an ideal world, these issues could be worked out between landowners. There is a history between these two sites. The City is not in a position to require a water easement on the alternate site. The City is not in a position to require the easement onto the other property, especially if there is an alternative that is available. The looped water system, which is an option here, would serve the development just as well as a water line running into the development. There is also the option of a City Council waiver. Whether City Council will agree to this must be determined by them. Mr. Gillam said that the City will have to accept the fact that these two landowners have not worked anything out, and City Council will have to weigh what's on the table with that in mind.

Mr. Coburn said that without the connection to Mirabella, there is no looped connection through the site. The City would require the extension to the property line, and then the Applicant would be encouraged to get an easement from the adjacent property to make that connection. If they are unable to get the easement, they will still have to connect to the property line. Member Meyer asked for clarification – does this Applicant still have to negotiate with the adjacent land owner? Mr. Coburn said that the Ordinance requires the water main to be extended to the property lines. A loop must be provided wherever possible to provide reliable service for water. The City would encourage the Applicant to work something out with the adjacent property owner, but he understood that the City cannot require them to obtain the easement. It makes common sense to have the connection so there is another loop in the system. Then, if something breaks, there is another outlet for getting water to the people on the other side of the break. Without this connection the Applicant can probably still demonstrate that they can meet the required flows that the Fire Department has specified as their need in fighting fires. It is probably not crucial for this design to have the loop. The City would just like to see it for liability reasons.

Mr. Spencer added that if an easement does become available, the City will ask them to connect. Mr. Coburn agreed with that statement. Mr. Spencer said there is a chance that an easement will become available. Mr. Coburn said the burden remains on the Applicant that he must be able to provide the necessary flows.

Chair Cassis thought the developer had mentioned a second option. Mr. Coburn said there is a second proposal which is a parallel water main – a "boulevard" water main. The City finds this to be an unacceptable design. The two mains serve no purpose and confuse the Water Department Staff when they have to go service a main.

Member Meyer was willing to support the project; he was just worried about whether the design would still work without the water connection. Chair Cassis said that the plan would not have been brought to the Planning Commission if the Planning Department did not think the plan would work.

Member Pehrson asked whether the Preliminary Site Plan motion needed to state the need for a looped system or a City Council waiver. Mr. Gillam answered affirmatively.

Member Pehrson asked about the stormwater sewer comment regarding the catch basin being relocated further east. Mr. Spencer said that there is a catch basin on one of the lots that is not in a desirable location. The Applicant has responded that they would work on the possibility of moving it. The City's Engineer has commented that there is enough grade to do that. The Woodland Consultant has also suggested the same thing to help save more trees. Member Pehrson said that the words being bantered about were not definitive – would the Applicant be willing to do this? Mr. James responded that he would if the request was feasible.

Member Pehrson said he appreciated the use of the Concept Plan and Preservation Option. He understood the berm along Eight Mile is pretty much the County's call. Mr. Spencer said that the berming is adjacent to the right-of-way, which is where the Applicant is requesting a waiver of some plantings. It is off the right-of-way where the berming is required east of the entrance. The Wayne County Road Commission involvement is for extra trees in the right-of-way. Member Pehrson asked if it was likely that Wayne County would have a favorable answer. Mr. Coburn responded that the City only works with Wayne County on a two-mile section of Eight Mile. He had a very limited history of working with Wayne County.

Member Pehrson asked about the opacity requirements and the proposal. Doris Hill, acting as the City's Landscape Architect, responded that the plan proposes even more plantings than what other projects provide. This is an improvement over the original plans.

Member Pehrson asked about the length of the cul-de-sac, and whether there was a precedent in Novi that this less than 800-foot requirement is typically waived. Mr. Gillam responded that there have been instances where City Council has waived that limitation in the past.

Member Pehrson had no objection with the plan, outside of the fact that he would like to see the easement happen. He encouraged these landowners to get together and discuss this issue.

Moved by Member Pehrson, seconded by Member Meyer:

In the matter of Normandy Hills Site Condominium, SP05-03B, motion to recommend approval of the Concept Plan to City Council, subject to: 1) The Applicant providing a paved emergency access to Mirabella Estates; 2) The Applicant providing a Conservation Easement for the permanent preservation of proposed preservation areas for review and approval by the City Attorney prior to submittal of the Final Site Plan, for the reason that the plan meets the intent of the Master Plan for Zoning.

DISCUSSION

Mr. Gillam suggested that the five findings be added to the motion. Member Pehrson and Member Meyer agreed.

Chair Cassis thought that the Applicant has come through with many adjustments that positively impact the plan. Chair Cassis felt that the Planning Commission's request for additional preservation of the natural features was met. He felt that the development was synchronized as best as possible for the benefit of the community. He complimented the developer for his hard work. He also complimented the Planning Department on their work on this plan.

ROLL CALL VOTE ON NORMANDY HILLS, SP05-03B, CONCEPT PLAN RECOMMENDATION MOTION MADE BY MEMBER PEHRSON AND SECONDED BY MEMBER MEYER:

In the matter of Normandy Hills Site Condominium, SP05-03B, motion to recommend approval of the Concept Plan to City Council, subject to: 1) The Applicant providing a paved emergency access to Mirabella Estates; 2) The Applicant providing a Conservation Easement

for the permanent preservation of proposed preservation areas for review and approval by the City Attorney prior to submittal of the Final Site Plan, for the reasons that: 1) The plan meets the intent of the Master Plan for Zoning; 2) The use of the Option will result in a more pleasing and desirable layout than could be obtained with conventional development means; 3) The use of the Option, when compared to using conventional requirements, will not cause a detrimental impact on the surrounding neighborhood; 4) The project is not a continuation or phase of another development; 5) The use of the option will result in substantial preservation of regulated woodlands; and 6) The development shall include a mechanism to permanently preserve the preservation areas. *Motion carried 5-0.*

Moved by Member Pehrson, seconded by Member Meyer:

In the matter of Normandy Hills Site Condominium, SP05-03B, motion to grant approval of the Preliminary Site Plan subject to: 1) A Planning Commission Waiver of the landscape berm requirement along the north and west boundaries, if screening is provided that meets Zoning Ordinance opacity requirements, taking into consideration the existing sewer in this area; 2) A Planning Commission Waiver of the Eight Mile ROW berm and street tree requirements east of the entrance, which is due to the wetland area and the grade change; 3) A Planning Commission Waiver to permit additional planting in the Eight Mile ROW subject to Wayne County approval; 4) The Applicant obtaining a City Council Waiver for the lack of a stub street to neighboring properties; 5) The Applicant providing a paved emergency access to Mirabella Estates; 6) The Applicant providing a Conservation Easement for the Conservation Credit Areas - the west 35 feet and east 15 feet of the site depicted for tree conservation and the remaining wetland buffer and wetland area; 7) The Applicant either providing a looped water main system or obtaining a City Council Variance for a water main exceeding 800 feet and extending a water main stub in an easement to the east property line; and 8) The comments on the attached review letters being addressed on the Final Site Plan submittal; for the reason that the plan meets the intent of the Master Plan for Land Use. *Motion carried 5-0.*

DISCUSSION

Mr. Gillam said that it would be appropriate to add the stipulation that Preliminary Site Plan approval is contingent upon City Council's approval of the Concept Plan, which under normal circumstances would have preceded the formal site plan review. Member Pehrson and Member Meyer agreed to the addition of the language.

ROLL CALL VOTE ON NORMANDY HILLS, SP05-03B, PRELIMINARY SITE PLAN MOTION MADE BY MEMBER PEHRSON AND SECONDED BY MEMBER MEYER:

In the matter of Normandy Hills Site Condominium, SP05-03B, motion to grant approval of the Preliminary Site Plan subject to: 1) A Planning Commission Waiver of the landscape berm requirement along the north and west boundaries, if screening is provided that meets Zoning Ordinance opacity requirements, taking into consideration the existing sewer in this area; 2) A Planning Commission Waiver of the Eight Mile ROW berm and street tree requirements east of the entrance, which is due to the wetland area and the grade change; 3) A Planning Commission Waiver to permit additional planting in the Eight Mile ROW subject to Wayne County approval; 4) The Applicant obtaining a City Council Waiver for the lack of a stub street to neighboring properties; 5) The Applicant providing a paved emergency access to Mirabella Estates; 6) The Applicant providing a Conservation Easement for the Conservation Credit Areas - the west 35 feet and east 15 feet of the site depicted for tree conservation and the remaining wetland buffer and wetland area; 7) The Applicant either providing a looped water main system or obtaining a City Council Variance for a water main exceeding 800 feet and extending a water main stub in an easement to the east property line; 8) The comments on the attached review letters being addressed on the Final Site Plan submittal; and 9) The

Preliminary Site Plan approval is contingent upon City Council's approval of the Concept Plan; for the reason that the plan meets the intent of the Master Plan for Land Use. *Motion carried 5-0.*

Moved by Member Pehrson, seconded by Member Meyer:

ROLL CALL VOTE ON NORMANDY HILLS, SP05-03B, WETLAND PERMIT MOTION MADE BY MEMBER PEHRSON AND SECONDED BY MEMBER MEYER:

In the matter of Normandy Hills Site Condominium, SP05-03B, motion to grant approval of the Wetland Permit subject to the comments on the attached review letters being addressed on the Final Site Plan submittal, for the reason that the plan is otherwise in compliance with the Ordinance. *Motion carried 5-0.*

Moved by Member Pehrson, seconded by Member Meyer:

ROLL CALL VOTE ON NORMANDY HILLS, SP05-03B, WOODLAND PERMIT MOTION MADE BY MEMBER PEHRSON AND SECONDED BY MEMBER MEYER:

In the matter of Normandy Hills Site Condominium, SP05-03B, motion to grant approval of the Woodland Permit subject to the comments on the attached review letters being addressed on the Final Site Plan submittal, with the Preservation Easements being provided as a part of this approval, for the reason that the plan meets the intent of the Ordinance. *Motion carried 5-0.*

Moved by Member Pehrson, seconded by Member Meyer:

ROLL CALL VOTE ON NORMANDY HILLS, SP05-03B, STORMWATER MANAGEMENT PLAN MOTION MADE BY MEMBER PEHRSON AND SECONDED BY MEMBER MEYER:

In the matter of Normandy Hills Site Condominium, SP05-03B, motion to grant approval of the Stormwater Management Plan subject to the comments on the attached review letters being addressed on the Final Site Plan submittal, for the reason that the plan meets the intent of the Ordinance. *Motion carried 5-0.*

City Council Minutes

Excerpts

February 21, 2006

**REGULAR MEETING OF THE COUNCIL OF THE CITY OF NOVI
EXCERPTS
FEBRUARY 21, 2006 AT 7:00 P.M.
COUNCIL CHAMBERS – NOVI CIVIC CENTER – 45175 W. TEN MILE ROAD**

ROLL CALL: Mayor Landry, Mayor Pro Tem Capello-absent/excused, Council Members Gatt, Margolis, Mutch, Nagy, Paul-absent/excused.

ALSO PRESENT: Clay Pearson, City Manager
Tom Schultz, City Attorney
Barbara Mc Beth, Director of Planning
Rob Hayes, Director of Engineering

- 2. Consideration of the request of Jeff James of SMJ Marketing for Normandy Hills, for use of the Preservation Option and approval of the proposed Preservation Option Concept Plan and approval of a waiver of Subdivision Ordinance requirement for streets extending to neighboring properties. The subject property is located in Section 35 on property west of Meadowbrook on the north side of Eight Mile Road in the R-1, One-Family Residential District. The applicant proposes a 13-lot single family development on 9.3 acres.**

Jeff James was present to represent this project. He commented that he and the Engineering Department had worked extensively on this for this option, and it seemed to fit the property almost ideally with the open space, and matching up the access roads. There has been extensive work done on this especially by the Planning Department, who has been very helpful in coming up with solutions to some of the challenges they have encountered.

Mayor Landry asked Mr. Pearson if there was anything the administration wished to add to the written material. Mr. Pearson said no, the only item for background is the development option that they have chosen is unique. He said this option has not been used much in Novi, and it needed Council approval at this level.

DISCUSSION

Member Mutch said correspondence provided to Council indicated that Ms. Mc Beth's Planning Department had worked extensively with this applicant to try and preserve some of the natural features located on this site. He asked what other options were considered for this site, if any, and why weren't they used.

Ms. Mc Beth said the Planning Department did work extensively with this applicant, and early in the process the applicant had come in with a straight site condominium development. It had a long cul-de-sac and standard lot sizes, which was included in the packet and labeled *The Bona Fide Plan*, and that was as close as they could get to have a plan that met the requirements of a straight site condominium. She said there was a Sugar Maple stand in the northwest corner of the site. This Preservation Option was able to preserve that stand. She said they talked about other options but found that this Preservation Option was the one that

could preserve the Sugar Maple stand, and line up the emergency access with the adjacent Mirabella Estates.

Member Mutch asked if there were any other development options that this property qualified for. Ms. Mc Beth said they looked at Single-Family Cluster Option, and it didn't work because

it didn't meet any of the qualifying criteria. She said they looked at the other options in the ordinance and found that this was the one that best fit the circumstances of this site. Member Mutch asked if it was the department's opinion that the proposed option meets the intent of the Preservation Option language in terms of protecting the woodlands on the site. Ms. Mc Beth said it is the Planning Departments opinion that it is the best fit for preserving the natural features on site. The applicant has met the requirements for reducing the lot sizes in an amount equivalent to the amount of area being preserved, and has agreed to preserve additional areas on site, above and beyond what the ordinance requires. Member Mutch asked her to show the area, on the map, that is being preserved, and she did, including the additional areas the applicant agreed to preserve. Ms. Mc Beth described all of the areas and their locations to Member Mutch.

Member Mutch asked where in the process did that proposal, the Conservation Easements, on the rear portion of the lot come forward. He asked if that was recently. Ms. Mc Beth said she didn't remember the exact date it was offered. She knew she had been working with the applicant for a considerable amount of time to preserve the existing woodlands on the site. Member Mutch said, on that point, the concern he had was that by placing the Conservation Easements on the lots versus an approach that actually removes those areas from the lots. He said the calculations for the Preservation Option the applicant used, it is to the degree that it allowed him to obtain approval, and meet the criteria of the ordinance. However, they didn't meet the intent of the ordinance, which is to maximize the preservation of the woodlands on site. He said 5% of the site in Conservation Easement and fractional amounts of the woodlands on site being preserved, doesn't address the intent as he saw it. If the applicant could move those portions of those lots out of those areas or reduce the size of the lots, which would be allowed, he thought, the Preservation Option allows them to go down to about 18,000 square feet. Ms. Mc Beth said that's correct. He said they are currently averaging about 20,000 square feet. Ms. Mc Beth said the chart shows what is allowed in the R-1 District, what is being proposed, and the minimums being allowed with the Preservation Option. The R-1 zoning allows 21,780 square feet as a minimum with a lot width of 120 feet. The Preservation Option allows 18,000 square feet with 110 feet of frontage, and the applicants proposing 20,541 square feet with just over 113 feet of frontage. Member Mutch said there is still room for them to significantly reduce the size of these lots. Ms. Mc Beth replied there would be room to reduce the size of the lots to some extent. The staff worked very carefully with the applicant to make sure that the areas would be actually qualifying areas. Some of the areas we see as nice quality woodlands are not actually a part of the regulated woodland areas. The staff saw it as compromise to request that those areas be placed in a Conservation Easement for a total area of 1.6 acres of the site being preserved, although not all of the lot sizes are being reduced. Member Mutch said that number includes those backyard Conservation Easement areas. Ms. Mc Beth said that's correct. He said then for any homeowner, on those lots, there would be a permanent restriction so they won't be able to cut down a tree just because they don't like it there. Member Mutch thought, from a practical standpoint, that approach is problematic and a long term enforcement problem, because it relies upon the City enforcing action against individual homeowners. Whereas, if this is in a commons area, every lot owner in the subdivision has both the property interest, and a financial interest in insuring

that their neighbors respect the conservation areas. He said he guessed, maybe, that was a policy statement.

Member Mutch asked if the area the drainage courses through to the south is the Quail Ridge Drain that we have had so many problems with in Northville Township. Ms. Mc Beth said she knew that the drain goes under Eight Mile Road into Northville Township. He thought that area to the south was the area that both Northville Township and Novi had spent a considerable amount of money to deal with runoff and erosion issues. He said there were some detention areas on site, but he was looking for some assurance this would not exacerbate a problem area that we've already spent a significant amount of money on in the last five years to address. Obviously, compared to what was there before this is a fairly significant development, especially with the loss of a significant amount of the woodland cover based on the plan in front of Council. Ms. Mc Beth said the plan on display does show the storm water detention area which is immediately adjacent to that drain area. She knew the staff engineer had reviewed it, but it can be passed on for further consideration at final site plan.

Member Mutch stated he didn't think the option was being used to the extent possible. He also felt that from a policy viewpoint, there was concern about whether the residential development options, to deal with sites like this, needed to be examined. Novi has a lot of 5 to 10 acre sites that have a significant amount of regulated woodland. He said developments have come in and clear cut those sites, and there might be a little perimeter around the site, but we are not seeing significant preservation. If that's a problem with our ordinances, then it is something that needs to be looked at. If this development is what we get with a Preservation Option he is not seeing much preservation, and it is not working as an option.

Member Nagy thought the previous speaker raised concerns of hers as well. One is that the Conservation Easement is on lots, and offered an example of why. There was a person in a subdivision whose lot abutted a wetland. They went in during the winter and cut the trees down and made an ice rink, and she thought there had been problems in another subdivision as well. She said that concerns her because she thought it would be an enforcement issue. She didn't think it was good for the homeowner or for the City. Member Nagy didn't believe this was the intent of the preservation ordinance, and didn't remember being on the Planning Commission and using it this way. She would have liked to see more preservation. Also, she went through the tree list and #330 is a White Ash with a status to save, but it has Emerald Ash Borer disease, so it should be removed. She #213, a Black Locust, is in very poor condition, has hard rot, but is going to be saved. She wasn't sure how they made the decision on which trees to remove. There are also some trees on their list to be removed that could be saved by pruning. She was also concerned about the intent of the ordinance not being met, and was not sure where the lot could be reduced to preserve some of the woodlands. She said she wondered if the radius of the cul-de-sac could be reduced and the corner lots, especially the huge one, to preserve more of those woodlands. She stated she wasn't sure it was possible but wanted to look into it. She didn't think a lot could be reduced from the front, but did think a reduction could be made around the cul-de-sac. She asked them to be sure the White Ash is removed.

Member Margolis commended the City staff and the developer for working so closely together on this. She thought they could take a look at this information and decide that, perhaps, it didn't meet the intent as far as we may read it, but she thought they had gone through a long process to work with the developer and compromise. Member Margolis thought where they

get into trouble is going back and forth second guessing the professionals who have worked on this long term with the person that is trying to develop the plan.

CM-06-02-039

Moved by Margolis, seconded by Gatt; MOTION CARRIED:

To approve the request of Jeff James of SMJ Marketing for Normandy Hills, for use of the Preservation Option and approval of the proposed Preservation Option Concept Plan and approval of a waiver of Subdivision Ordinance requirement for streets extending to neighboring properties. The subject property is located in Section 35 on property west of Meadowbrook on the north side of Eight Mile Road in the R-1, One-Family Residential District. The applicant proposes a 13-lot single family development on 9.3 acres. Also, based on Member Margolis' comments that she commended the City staff and the developer for working so closely together on this and that they could look at this information and decide that, perhaps, it didn't meet the intent as far as we may read it, but she thought they had gone through a long process to work with the developer and compromise.

DISCUSSION

Member Gatt commented that he wanted to echo what Member Margolis said. He said Ms. Mc Beth's staff had done a remarkable job under some trying situations, and he would support the motion. Member Gatt thanked Ms. Mc Beth and her staff for a job well done.

Mayor Landry echoed the comments of Member Gatt.

Roll call vote on CM-06-02-039

Yeas: Margolis, Landry, Gatt

Nays: Mutch, Nagy

Absent: Capello, Paul